



UNITED STATES PATENT AND TRADEMARK OFFICE

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HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

MAILED

MAY 13 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of :
Roland Lippert et al : DECISION ON PETITION
Application No. 09/719,759 : TO WITHDRAW THE
Filed: December 14, 2000 : HOLDING OR ABANDONMENT
For: MULTI-ROW RADIAL BEARING

This is in response to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on August 21, 2003.

The petition is DENIED.

A review of the file record indicates applicants filed a Notice of Appeal on December 4, 2002, but did not subsequently file an Appeal Brief. The application was held abandoned and a Notice to that effect was mailed August 11, 2003.

Applicants' petition refers to two telephone calls with the examiner in which the outstanding Office action was discussed; however, no Interview Summaries and/or Office actions were mailed in response to these telephone calls. Although the examiner may have indicated an intention to issue a new Office action, applicants are not relieved of the duty to timely file an Appeal Brief or other appropriate response absent receipt of a new Office action from the examiner which reopens prosecution.

Applicants may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,330. If applicants have, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9285.

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RAR/mjz: 5/12/04